

NEWS FROM THE ADMINISTRATIVE OFFICE

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Privacy Amendments

The bankruptcy courts and the Administrative Office are continuing work to implement pending amendments to Federal Rules of Bankruptcy Procedure 1005, 1007, and 2002, and Bankruptcy Official Forms 1, 3, 5, 6, 7, 8, 9, 10, 16A, 16C, and 19 to protect the privacy of debtors and other parties in bankruptcy cases. There also is a proposed new Official Form 21, Statement of Social Security Number. The amendments are scheduled to take effect on December 1, 2003, unless Congress acts to the contrary.

These privacy amendments, which were proposed by the Advisory Committee on Bankruptcy Rules and approved by the Judicial Conference, are consistent with the Judicial Conference's September 2001 policy on Privacy and Public Access to Electronic Case Files. The policy states that documents in bankruptcy cases should be made generally available electronically with the proviso that the Bankruptcy Code and Rules should be amended as necessary to allow the court to collect a debtor's full Social Security number but display only the last four digits.

Key provisions of the changes to the rules and forms include the following:

- The petition, Official Form 1, will contain only the last four digits of individual debtors' Social Security numbers.
- Amendments to Rule 1007 will require debtors to *submit* a verified statement containing the full nine-digit number.
- The new Statement of Social Security Number, proposed Official Form 21, will not be

filed in the case or become part of the case file available to the public at the court or over the Internet. The proposed form is pending approval by the Judicial Conference at its meeting on September 24, 2003.

- Rule 2002 will be amended to require the clerk to include the debtor's full Social Security number in the copy of the meeting of creditors notice, Official Form 9, sent to creditors, the debtor, the trustee, and the United States trustee or bankruptcy administrator. The copy of the section 341 notice included in the court case file, however, will contain only the last four digits of the Social Security number.
- Official Form 10, Proof of Claim, will require a wage creditor to disclose only the last four digits of the creditor's Social Security number.
- Official Form 6, the schedules of assets and liabilities, will state that the debtor is only required to list the last four digits of account numbers but that the full numbers are useful to the trustee and creditors and may be provided if the debtor chooses to do so.
- Official Form 16A, the full caption, will be amended to include only the last four digits of the debtor's Social Security number. Accordingly, notices other than the 341 notice will either include the last four digits or none, if Official Form 16B, the short caption, is used.

One of the key changes is the new Statement of Social Security Number, proposed Official Form 21. Some courts may require that a signed paper copy of the verified form be submitted. Other courts may require that the information be submitted electronically as part of case opening in CM/ECF or as part of the automated Case UpLoad process and that the debtor's attorney retain a signed copy of the verified statement.

The privacy amendments require changes in the bankruptcy courts' automated case management systems and the courts' noticing process, as well as other procedures and local rules. The Administrative Office has distributed guidance to the courts on the impacts of the amendments and recommended approaches for implementation. In addition, bankruptcy forms publishers and software vendors have been informed about the changes so that they can update their forms and software.

CM/ECF (Case Management/Electronic Case Files), PACER (Public Access to Electronic Records), and VCIS (Voice Case Information System) will be revised so that the CM/ECF system stores the full nine-digit Social Security number submitted by the debtor but only the last four digits will be displayed on the public terminals in the clerk's office and given out on PACER and VCIS. In addition courts using the BANCAP and NIBS legacy case management systems will modify their procedures so that the full Social Security number is not displayed. Work is underway at the Bankruptcy Noting Center to accommodate the changes in the noticing process for courts using any of the three case management systems.

Filers — not the clerk — are responsible for redacting Social Security numbers and other personal identifiers such as dates of birth, financial account numbers, and names of minor children in documents — including petitions, schedules, statements, proofs of claim, and attachments — they file with the court. Because pre-existing financial documents which include personal identifiers may be filed as attachments to court papers, the courts may revise their local rules to provide for redaction of these documents and other attachments or to require that the documents be furnished to opposing counsel but not filed unless there is a dispute concerning the document.

Copies of the amended rules and forms are available on the Federal Rulemaking page of the Judiciary's website at www.uscourts.gov/rules/newrules6.html, clicking on "Amendments Submitted to the Judicial Conference (Sept. 2002)" and then "Proposed Amendments to the Federal Rules of Bankruptcy Procedure and Official Forms."